



#4

DCSINC.011A

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Weatherill et al.) Group Art Unit 3653
Appl. No. : 09/777,420)
Filed : February 6, 2001)
For : REEL HOUSING WITH)
DECORATIVE ACCESS)
PANEL)
Examiner : Unknown

EXHIBIT A

DECLARATION OF CO-INVENTOR JAMES B.A. TRACEY

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

1. My name is James B.A. Tracey. I am the Chairman & Chief Executive Officer of Great Stuff, Inc. ("Great Stuff"), located at 555 McCormick Street, San Leandro, CA 94577-1125. I am also the Chairman, Chief Executive Officer, and principal owner of Diversified Collection Services, Inc. ("DCS"), located at the same address.

2. On November 3, 1997, DCS hired Sean B. Weatherill, co-inventor of the claimed subject matter of the above-captioned application, to assist in the design and development of reels for hoses, electrical cords, and the like.

3. At the time of his hiring, Mr. Weatherill and DCS entered into an Employment Agreement, attached to the accompanying petition as Exhibit B.

4. Paragraph 7.1 of the Employment Agreement states:

7.1 All ideas, thoughts, processes, discoveries, inventions, writings, programs, systems, and other intangible rights and items used, discovered, thought of, invented, developed, improved, or otherwise used by you while employed by DCS and all incidents of the same, shall be deemed to be the sole property of DCS.

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This shall be so regardless of whether the intangible right or item is capable of protection under patent, trademark, copyright, or other laws.

5. Mr. Weatherill was continuously employed by DCS from the time he was hired until March 15, 2001.

6. Mr. Weatherill and I co-invented the subject matter of the above-captioned application during his employment by DCS. The disclosed and claimed subject matter relates to decorative access panels for outdoor reels for hoses, electrical cords, and the like.

7. On January 8, 2001, Great Stuff's intellectual property counsel Knobbe, Martens, Olsen & Bear, LLP, the attorneys of record, sent me assignment and declaration (as required under 37 C.F.R. § 1.51(b)(2)) forms for the above-captioned patent application, to be signed by both me and Mr. Weatherill. The assignments were from Mr. Weatherill and I to Great Stuff.

8. During the period from January 8, 2001 until March 15, 2001, I asked Mr. Weatherill on multiple occasions to sign the declaration and assignment forms mentioned above in paragraph 7. On each such occasion, Mr. Weatherill refused to sign either form.

9. During the period from January 8, 2001 until March 15, 2001, Jon Shaver, Senior Vice President of Great Stuff, also asked Mr. Weatherill on multiple occasions to sign the declaration and assignment forms mentioned above in paragraph 7. On each such occasion, Mr. Weatherill refused to sign either form.

10. On January 29, 2001, I signed the declaration and assignment forms mentioned above in paragraph 7. I returned these forms to the attorneys of record, and they were eventually filed together with the patent application.

11. On June 4, 2001, DCS assigned its entire interest in the subject matter of the above-captioned application to Great Stuff. Attached as Exhibit C of the accompanying petition is a copy of an Assignment by DCS to Great Stuff of the invention described in the application.

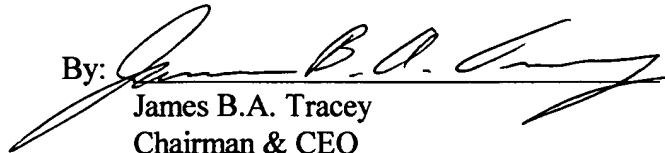
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12. Since Mr. Weatherill refuses to sign a declaration for this application, I respectfully request that examination proceed without his signature.

Respectfully submitted,

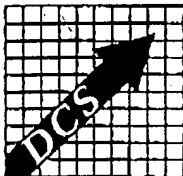
Dated: 6-4-01

By:



James B.A. Tracey
Chairman & CEO
Great Stuff, Inc.
555 McCormick Street
San Leandro, CA 94577-1125

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Diversified Collection Services, Inc.
EMPLOYMENT AGREEMENT



THIS EMPLOYMENT AGREEMENT (hereafter referred to as the "Agreement") is made this 3 day of NOV 1997, by and between DIVERSIFIED COLLECTION SERVICES, INC., a California corporation, having its principal place of business in San Leandro, California (hereafter "DCS"), and SEAN W. BISHOP hereafter referred to as "YOU," or as "EMPLOYEE").

1. EMPLOYMENT

1.1 DCS agrees to employ you, and you accept and agree to employment on the terms and conditions set forth herein.

1.2 You shall serve in the capacity of _____.

1.3 Your principal duties and responsibilities are set forth in Exhibit A, attached hereto and made a part of this Employment Agreement.

1.4 Your position and/or principal duties may change from time to time depending on DCS' needs and your capabilities. The terms of this Agreement shall apply no matter what position you hold, or what your duties may be.

1.5 You agree that, except during vacation periods or in accordance with DCS' personnel policies covering leaves and reasonable periods of illness or other incapacitation, you shall devote all of your business time and services to the business and interest of DCS.

1.6 You will be made familiar with the applicable laws that govern collection practices and you agree that you will not do any act in contravention of the laws which include the Robbins-Rosenthal Fair Debt Collection Practices Act, the U. S. Fair Debt Collection Practices Act, and the rules and regulations promulgated thereunder, or any other local, state or federal law, rule or regulation.

2. TERM OF EMPLOYMENT

2.1 Your term of employment shall begin on 11-3, 1997, and shall continue until your employment is terminated by either of us as provided in Section 8, or until termination or dissolution of DCS.

3. COMPENSATION OF EMPLOYEE

3.1 DCS shall compensate you for your time and efforts according to the compensation and/or commission schedule set forth by DCS from time to time during your employment by DCS, or as otherwise specifically agreed upon in writing between us. DCS reserves the right to change, modify or alter your compensation as follows:

- a) For salary or base wage compensation, upon 30 days notice;
- b) For bonuses or commissions, without prior notice.

4. EMPLOYEE BENEFITS

4.1 You shall be eligible for certain company benefits, as set forth in the appropriate DCS EMPLOYEE publication. The DCS policies, benefits and procedures in effect on the date of this Agreement are incorporated herein by reference. DCS reserves the right to modify and/or cancel said benefits, policies, or procedures, individually or collectively, at any time without advance notice to you. You acknowledge that DCS has not made any guarantee that any benefits in effect at the commencement of your employment, or which may come into effect during your employment, are guaranteed to continue for any particular period of time.

5. CONFIDENTIALITY AND NON COMPETITION

5.1 In the course of your employment, you may learn, discover, be taught, help develop or otherwise have access to certain information and materials of DCS' which DCS has compiled, gathered and developed over many years, which are important to the successful operation of DCS and which DCS regards as a confidential trade secret.

The confidential materials and information will include, but not necessarily be limited to the following:

- 1. DCS' customer or client lists;
- 2. Its customers/clients buying habits or practices;
- 3. Key contact people for customers/clients;
- 4. Customer/client fee or payment arrangements;
- 5. DCS' marketing materials, methods, pricing and related data;
- 6. DCS' vendors or suppliers;
- 7. DCS' costs of materials;
- 8. Lists or other written records used in DCS' business;
- 9. Compensation paid to employees and other terms of employment;
- 10. Computer software, user manuals and training manuals.

DCS makes reasonable efforts to maintain the confidentiality of this information, including requiring all its employees to sign a written promise (covenant) not to disclose any confidential information that the employee may learn about, regardless of how the

employee acquires the information. The information is and will remain confidential, even if the employee helps develop, gather or acquire the information him or herself. Therefore, in addition to all other promises made herein, you agree as follows:

5.2 During the term of your employment with DCS, you shall not, either directly or indirectly, use or disclose any of DCS' confidential information, or use it in any manner whatsoever, except as may be directly necessary for your work with DCS.

5.3 At any time, your employment with DCS may be terminated, regardless of the reason for termination, and you shall not, either directly or indirectly, disclose or use any of DCS' confidential information in any manner whatsoever.

5.4 You shall not copy for your personal use, or take or remove, any confidential information or materials from DCS' premises, except as is required for your work with DCS. If you are terminated, regardless of the reason for termination, you shall immediately return to DCS any originals and all copies of confidential information or materials in your possession or under your control.

5.5 In the event of your termination from DCS, and regardless of the reason for termination, you shall not, directly or indirectly, for a period of one year from the last day of your employment with DCS, take away or solicit or attempt to take away or solicit, any DCS employees or urge or attempt to influence any DCS employees to terminate their relationship with DCS.

5.6 During the term of your employment with DCS, you shall not, directly or indirectly, either as an employee, employer, consultant, agent principal, partner, stockholder, officer, director or in any other capacity, engage or participate in any business that is in competition, in any manner whatsoever, with the business of DCS.

5.7 The covenants of this Paragraph shall be construed as separate covenants concerning their subject matter in each of the separate counties and states in the United States in which DCS transacts its business; to the extent that if any covenant shall be judicially unenforceable in any or more of said counties or states, said covenant shall not be affected with respect to each other county and state, each covenant being construed as severable and independent.

5.8 In the event of a dispute arising under this Paragraph, you or DCS may seek declaratory or injunctive relief in a court of competent jurisdiction. All other relief, whether damages or otherwise, must be sought through the dispute resolution process described in Paragraph 6, which follows.

6. DISPUTE RESOLUTION

6.1 Even in the best of jobs, there may be complaints, disputes, grievances, or claims arising out of the employment relationship. DCS believes and is committed to resolving all such disputes informally and in a fast, fair and final fashion without engaging in costly and time consuming litigation. The informal resolution of disputes over matters such as working conditions, discipline, policy interpretations, and interpersonal work

relationships allows problems to be uncovered early and dealt with rapidly without needless cost and delay to the employee or the company. In keeping with this commitment, DCS has instituted, maintains, and follows a comprehensive dispute resolution process. This process incorporates resolution through an informal grievance resolution procedure conducted by DCS employee, and/or through a more formal arbitration procedure.

6.2 In entering into this Agreement, you and DCS agree to accept and be bound by the dispute resolution process set out here. Except as provided in Paragraph 5.8, this process shall cover any and all grievances that arise out of, or are directly or indirectly related to, this Agreement, your employment at DCS, or the termination of your employment at DCS, to the extent permitted by law. You agree that this process covers any and all grievances you may have against DCS, and or any of its officers, directors, shareholders, employees, representatives or agents. As used herein, the word "grievance" or "grievances" shall mean any claims, grievances, causes of action, disputes, and disagreements whether they arise out of contract, tort, or statute, including but not limited to claims of violation of Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act, or the Americans with Disabilities Act, or any state equivalent prohibiting discrimination against or harassment of employees.

6.3 Any grievance that you may have, or that DCS may have, or which either of us believes exists, may, at the option of the party having the grievance, be submitted for resolution under DCS' internal Grievance Resolution Procedure, or submitted directly to arbitration. A copy of DCS' internal Grievance Resolution Procedure is fully set out in DCS' Employee Handbook and Employee Policies and Procedures Manual.

6.4 The party having the grievance has the choice of first submitting it under the Grievance Resolution Procedure. If either party is dissatisfied with the outcome or resolution, the dissatisfied party may then submit the grievance to binding arbitration. Or, the party having the grievance can bypass the Grievance Resolution Procedure entirely, and directly submit it to binding arbitration.

6.5 Any grievance submitted to arbitration, whether it goes to arbitration directly, or first goes through the Grievance Resolution Procedure, will be subject to the following:

1. It shall be submitted to the American Arbitration Association in conformance with its Rules of Practice and Procedure for Arbitration Hearings.
2. It shall be binding on both DCS and you, with no right of appeal, except as provided by law.
3. The costs of arbitration will initially be paid equally by DCS and you, but the Arbitrator(s) may assess the costs of arbitration against the losing party. Except as provided below, each side will bear their own attorney fees and costs in any arbitration proceeding.
4. If you or DCS attempt by any legal proceeding to set aside the award made by the Arbitrator(s), or attempt to modify, set aside, or

seek interpretation of this provision of the Agreement, the prevailing party in such proceeding will be entitled to an award of attorney fees and costs.

6.6 In entering into this Agreement and accepting resolution of any grievances under this provision you should understand the following:

- a) The dispute resolution process discussed above, is and will be the sole and exclusive remedy for any grievance that you may have against DCS, any of its officers, directors, shareholders, employees, representatives or agents, or which they may have against you; and,
- b) The dispute resolution process is intended to cover any and all grievances which arise out of, or are directly or indirectly related to this Agreement, your employment at DCS, or the termination of your employment with DCS;
- c) You understand that in agreeing to the dispute resolution process you are giving up the right to seek redress of your grievances in a civil lawsuit or administrative action, which includes the right to a trial by jury.

7. OWNERSHIP OF INTANGIBLE RIGHTS

7.1 All ideas, thoughts, processes, discoveries, inventions, writings, programs, systems, and other intangible rights and items used, discovered, thought of, invented, developed, improved, or otherwise used by you while employed by DCS and all incidents of the same, shall be deemed to be the sole property of DCS. This shall be so regardless of whether the intangible right or item is capable of protection under patent, trademark, copyright, or other laws.

8. TERMINATION OF EMPLOYMENT

8.1 You acknowledge and understand that your employment with DCS is at-will, which means that either DCS or you may terminate the employment arrangement at any time, with or without cause, and without prior notice. You further acknowledge and understand that your employment is not for any set period of time, or minimum period of time, and that the employment arrangement may be terminated at any time, even if you are with DCS for many years.

8.2 In the event of termination of this Agreement, you shall be entitled to the base pay compensation earned by you up to the date of termination computed pro rata and any vacation accrued. You shall also be entitled to bonus compensation earned on monies received by DCS as of date of termination, but not yet paid to you, computed at the rate then in effect.

8.3 Termination of your employment shall not be in limitation of any other right or remedy DCS may have under this Agreement or in law or equity.

8.4 In the event of termination of employment, you agree to deliver promptly to DCS all equipment, notebooks, documents, memoranda, reports, files, samples, books, programs, manuals, correspondence, jackets, lists, or other written graphic records or computer records, and the like, relating to DCS' business, which are in your possession or under your control.

9. CONTINUING OBLIGATIONS

9.1 Your obligations under this Agreement, and specifically the obligations of Section 5, shall continue in effect even after termination of your employment with DCS and the obligations shall be binding on your assigns, administrators, and other legal representatives.

10. GENERAL PROVISIONS

10.1 Your Representations: You represent and warrant that you are free to enter into this Agreement and to perform each of the terms and covenants of it. You represent and warrant that you are not restricted or prohibited, contractually or otherwise, from entering into and performing this Agreement, and that your execution and performance of this Agreement is not a violation or breach of any other Agreement between you and any other person or entity.

10.2 Merger: This Agreement supersedes any and all other agreements either oral or in writing, between us with respect to your employment by DCS. This Agreement contains all of the covenants and agreements between us with respect to your employment. Both you and DCS acknowledge that no representations, inducements, promises or agreements, orally or otherwise have been made by either of us, or anyone acting on behalf of either of us, which are not contained in this Agreement. We understand and agree that any promise, Agreement or statement not contained in this Agreement is not valid or binding.

10.3 Modifications: Any modification of this Agreement will be effective only if it is in writing, signed by you and the President of DCS.

10.4 Notices: Any notice to be given to DCS under the terms of this Agreement shall be addressed to DCS at the address of its principal place of business, and any notice to be given to you shall be addressed to you at your home address last shown on the records of DCS, or at such other address as either of us may designate in writing to the other. Any notice shall be deemed to have been duly given when enclosed in a properly sealed and addressed envelope, registered or certified, and deposited [postage and registry or certification fee prepaid] in a post office or branch post office regularly maintained by the United States Government.

10.5 Waiver: If either of us fails to enforce any provision or provisions of this Agreement, it shall not be construed as a waiver of any such provision or provisions, or prevent you or DCS from thereafter enforcing each and every other provision of this Agreement.

10.6 Severable Provisions: The provisions of this Agreement are severable, and if any one or more provisions may be determined to be judicially unenforceable, in whole or in part, the remaining provisions shall nevertheless be binding and enforceable.

10.7 Definition: For purposes of this Agreement, the term "DCS" shall be deemed to include any corporation which is in control of, controlled by, or under common control with DCS, whether or not you are directly employed by such other corporation or corporations.

10.8 Titles and Headings: Titles and headings to Paragraphs in this Agreement are for the purposes of reference only and shall in no way limit, define, or otherwise affect the provisions of it.

10.9 Governing Law: We agree that it is our intention that this Agreement and our performance under it, and all proceedings that may result or arise from its breach, be construed exclusively in accordance with and under the laws of the State of California.

10.10 Acknowledgment of Receipt and Understanding of Copy of Contract: You acknowledge that you have received a signed copy of this Agreement on the date listed above and you further acknowledge that you have read and understand the terms and conditions of employment contained herein, and knowingly and intelligently execute this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in
SAN LEANDRO CA, as of the date first above written.
City State

DIVERSIFIED COLLECTION
SERVICES, INC.


A California Corporation

EMPLOYEE

BY:


Hal Leach, President

BY:


Print Name: SEAN WEATHERILL

ASSIGNMENT

WHEREAS, Diversified Collection Services, Inc., a California corporation, having a place of business at 555 McCormick Street, San Leandro, CA 94577-1125, (hereinafter "Assignor") owns the entire right, title and interest in U.S. Patent Application Serial No. 09/777,420, filed February 6, 2001, entitled "REEL HOUSING WITH DECORATIVE ACCESS PANEL" (hereinafter the "Patent Application"); and

WHEREAS, Great Stuff, Inc., a California Corporation also having a place of business at 555 McCormick Street, San Leandro, CA 94577-1125, (hereinafter "Assignee"), is desirous of purchasing the entire right, title, and interest in and to the inventions embodied in the Patent Application; and

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration to Assignor in hand paid, the receipt and sufficiency of which is hereby acknowledged, the Assignor does hereby sell, assign, transfer and convey unto Assignee, its successors, legal representatives and assigns, the entire right, title, and interest possessed by Assignor in the inventions described in the Patent Application, as well as Assignor's entire right, title, and interest in, to and under the Patent Application and all reissues, continuations, continuations-in-part, and extensions thereof, and any and all related intellectual property, including but not limited to trade secrets, patent rights, copyrights, trade marks, trade dress, and know how.

AND ASSIGNOR HEREBY covenants and agrees that it will communicate to Assignee, its successors, legal representatives and assigns, any facts known to it respecting the Patent Application and testify in any legal proceeding, sign all lawful papers, execute all divisional,

Exhibit C

continuing and reissue applications, make all rightful oaths and generally do everything possible to aid Assignee, its successors, legal representatives and assigns to obtain and enforce proper patent protection for said Patent Application in all countries.

ASSIGNOR Great Stuff, inc.

By

Printed Name JAMES B. A. TRACEY

Title C.E.O. + CHAIRMAN

STATE OF California
COUNTY OF Alameda

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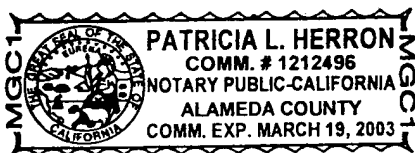
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On this 4th day of June, in the year 2001, before me, the undersigned Notary Public, duly commissioned and sworn, personally appeared James B. A. Tracey, personally known to me, or proved to me on the basis of satisfactory evidence, to be the person who executed the within instrument on behalf of the corporation therein named and acknowledged to me that the corporation executed it.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate above written.

[SEAL]



Patricia L. Herron

Notary Public in and for the aforesaid County and
State

My Commission Expires: March 19, 2003